

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DAVID ERWIN JONES, JR.,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. CIV-17-1038-F
	)	
STATE OF OKLAHOMA, et al.,	)	
	)	
Defendants.	)	

**ORDER**

United States Magistrate Judge Bernard M. Jones issued a Report and Recommendation on October 6, 2017 (doc. no. 6), recommending that the court abstain from the exercise of its jurisdiction over plaintiff, David Erwin Jones, Jr.’s claims sounding in habeas pursuant to the Younger<sup>1</sup> abstention doctrine. He additionally recommended that plaintiff’s claims against defendants, James Radford and the “Cleveland County Police Department,” be dismissed without prejudice pursuant to 28 U.S.C. § 1915A and § 1915(e)(2)(B)(ii) for failure to state plausible claims upon which 42 U.S.C. § 1983 relief may be granted. Further, Magistrate Judge Jones recommended that plaintiff’s application for leave to proceed in forma pauperis be denied as moot. Magistrate Judge Jones advised plaintiff of his right to file an objection to the Report and Recommendation by October 27, 2017 and specifically advised him that failure to make timely objection to the Report and

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<sup>1</sup> Younger v. Harris, 401 U.S. 37 (1971).

Recommendation waives the right to appellate review of the factual and legal issues therein addressed.

To date, plaintiff has not filed an objection to the Report and Recommendation and he has not requested an extension of time to file an objection. With no objection filed within the time prescribed by Magistrate Judge Jones, the court accepts, adopts and affirms the Report and Recommendation in its entirety.

On the same day Magistrate Judge Jones issued his Report and Recommendation, the court received from plaintiff a letter dated October 4, 2017 requesting to add “something” to his case. Doc. no. 7. Plaintiff avers that on September 30, 2017, officers “Arebalo & Jones” discriminated against him based upon his sexual preference. *Id.* However, the court declines to consider plaintiff’s request submitted by letter. Under the Federal Rules of Civil Procedure, “[a] request for a court order must be made by motion.” *See* Rule 7(b), Fed. R. Civ. P. Plaintiff’s *pro se* status does not exempt him from this requirement. Green v. Dorrell, 969 F.2d 915, 917 (10<sup>th</sup> Cir. 1992). Because plaintiff has not made his request in the form of a motion, the court shall not address it.

Accordingly, the Report and Recommendation issued by United States Magistrate Bernard M. Jones on October 6, 2017 (doc. no. 6) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**.


The court **ABSTAINS** from the exercise of its jurisdiction over the claims of plaintiff, David Erwin Jones, Jr., sounding in habeas pursuant to the Younger absention doctrine.

Plaintiff, David Erwin Jones, Jr.’s claims against defendants, James Radford and the “Cleveland County Police Department,” are **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915A and § 1915(e)(2)(B)(ii) for failure to state plausible claims upon which 42 U.S.C. § 1983 relief may be granted.

Plaintiff, David Erwin Jones, Jr.'s Application for Leave to Proceed In Forma Pauperis (doc. no. 3) is **DENIED** as **MOOT**.

Judgment shall issue forthwith.

IT IS SO ORDERED this 1<sup>st</sup> day of November, 2017.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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